

### REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 1-19 remain in the application and are subject to examination. Claims 1-19 have been amended. No claims have been added or canceled.

In "Claim Rejections – 35 USC § 112" item 5 on pages 2-3 of the above-identified Office Action, the Examiner mentioned the lack of an antecedent for the term "the useful data." This term has been changed to "the user data" as assumed by the Examiner.

In "Claim Rejections – 35 USC § 112" items 6 and 7 on pages 3-4 of the Office Action, the Examiner objected to several phrases in claims 3, 4, 6, 7, 14 and 17, all of which have been deleted.

It is accordingly believed that the claims meet the requirements of 35 U.S.C. § 112, second paragraph. The above-noted changes to the claims are provided solely for clarification or cosmetic reasons. The changes are neither provided for overcoming the prior art nor do they narrow the scope of the claim for any reason related to the statutory requirements for a patent.

In "Claim Rejections – 35 USC § 102" in item 9 on pages 4 to 7 of the Office Action, claims 1-19 have been rejected as being fully anticipated by U.S. Patent

Application Publication No. 2004/0224678 to Dahod et al. (hereinafter "Dahod")  
under 35 U.S.C. § 102(e).

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and, therefore, the claims have not been amended to overcome the references.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Claim 1 calls for, *inter alia*, a method for establishing a connection between a mobile radio user initiating the establishment of the connection and further mobile radio users of a group of mobile radio users via at least one mobile radio network, the method comprising:

useful data to be transmitted between the mobile radio user initiating establishment of the connection and further members of the group also being transmitted in addition to signaling data via a first channel on establishment of the connection, until a second channel is also established for the connection, whereupon the useful data is transmitted via the second channel.

Claim 16 calls for a device for implementing a method according to claim 1.

Independent claim 17 calls for, *inter alia*, a mobile radio terminal according to claim 16, comprising:

a controller, which is configured such that when a connection is established between the mobile radio terminal and one or more mobile radio users of a group, it first transmits voice data to a mobile radio network via a first channel also used for the transmission of signaling data, and, once a second channel is established, sends the voice data via the second channel.

As stated above, the Examiner is of the opinion that claims 1 to 19 are anticipated by Dahod. With respect to claims 1 and 16, the Examiner refers to paragraphs 28 and 29 of Dahod for disclosing that useful data first is transmitted via a first channel and after having established a connection, the useful data is transmitted via the recipients to a second channel. It is respectfully submitted that Applicants do not agree with the Examiner.

Dahod discloses a method for establishing a connection between a mobile radio user initiating the establishment of the connection (originating sender) and further mobile radio users (group of recipients) of a group of mobile radio users via at least one mobile radio network.

Dahod does not disclose that useful data are to be transmitted between the mobile radio user (originating sender) initiating establishment of the connection and further members of the group (group of recipients) although being transmitted in addition to signalling data via a first channel on establishment of the connection until (i.e. as long as) a second channel is also established for the connection whereupon the useful data is transmitted via the second channel.

Indeed, Dahod discloses sending useful data from the originating sender to an internet media gateway (IMG) before a connection to the group of recipients is established. However, the realization is different from that of the invention of the instant application.

In Dahod, the originating sender first sends a request signal indicating that a half-duplex communication link is to be established with a second user (a recipient). Upon receiving a signal from IMG indicating that the system is ready to receive a voice message from the sender, the originating sender may deliver a voice message (useful data) which will be stored as a digital file at IMG. After the connection to the recipient has been established, the stored voice signal is relayed to the recipient(s) and played back by decoding the stored digital audio file.

In that disclosure, there is no indication that the first step of sending useful data from the originating sender to the IMG is realized by a different channel which is later on used for the communication between the sender and the recipient. Dahod is silent with respect to the question whether one or different channels are used for signalling and/or useful data.

Dahod uses the principle of storing useful data and relaying that useful data later on to the recipient after the connection to the recipient has been established to reduce delay time or latency for the sender. By going that route, Dahod solved the same problem in a different manner as compared to the invention of the instant application.

Inn order to reduce delay time or latency, the method of the invention of the instant application uses a channel for transmitting useful data which generally only will be used for transmitting signalling data. This first channel will be used for transmitting useful data until a second channel is established in parallel for the connection.

From that time on, the useful data is transmitted via the second channel to provide better transmission quality.

Therefore, it is believed that the method according to claim 1 is neither anticipated by nor obvious over Dahod.

The same arguments are valid for claims 16 and 17 as well. Claim 16 includes the limitations of claim 1. Claim 17, which is directed to a mobile radio terminal, refers to the transmission of data via a first and a second channel as discussed above. Since Dahod does not disclose the use of different channels during the phase of establishing a connection between a sender and a recipient and after having established the connection, the mobile radio terminal according to claim 17 is believed to be neither anticipated by nor obvious over the prior art.

Clearly, Dahod does not show:

using different channels during a phase of establishing a connection between a sender and a recipient and after having established the connection,

as recited in claims 1, 16 and 17 of the instant application.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the limitations of claims 1, 16 and 17. Claims 1, 16 and 17 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claims 1 or 17.

In view of the foregoing, reconsideration and allowance of claims 1-19, are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

If an extension of time is required, petition for extension is herewith made. Any extension fee associated therewith should be charged to Deposit Account Number 12-1099 of Lerner Greenberg Stermer LLP.

Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to Deposit Account Number 12-1099 of Lerner Greenberg Stermer LLP.

Respectfully submitted,

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January 11, 2010

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